IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Crl.MC.No. 2959 of 2007()

CC.103/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, KUTHUPARAMBA

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PETITIONER: ACCUSED 1 & 2

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1. A.P.SHOUKATHALI, C.I. OF POLICE,
   MALAPPURAM.

2. P.SASIKUMAR, C.I. OF POLICE,
   KOOTHUPARAMBA, KANNUR DISTRICT.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. SUB INSPECTOR OF POLICE,
   KOLAVALLUR POLICE STATION.

2. STATE REP; BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

3. SREEDHARAN, S/O.KELAN,
   KIZHAKKEVEETTIL HOUSE,
   POYILOOR, THALASSERY.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2959 Of 2007

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Dated this the 3rd day of October, 2007

ORDER

Against the petitioners, cognizance has been taken by the learned Magistrate for offences punishable, inter alia, under Section 323 read with 149 IPC. The cognizance was taken by the learned Judicial Magistrate, Kuthuparamba on the basis of a complaint made orally by an arrested accused person who was produced before the Judicial First Class Magistrate Court – Kuthuparamba. The learned Sessions Judge sent the matter to the Judicial First Class Magistrate Court- Kuthuparamba for action. Thereupon the statement of the complainant was recorded and cognizance was taken. The petitioners have already appeared and was enlarged on bail. Though various contentions are being raised, finally after the discussions at the Bar, the learned counsel for the petitioners only submits that there may be a direction to the learned Magistrate not to insist personal appearance of the petitioners on all the dates of posting. All other contentions shall be raised before the learned Judicial First Class Magistrate at the appropriate stage, submits the learned counsel for the petitioners. Offences alleged are only the one punishable under Section 323 and

324 IPC. The alleged offences have been committed by the petitioners in respect of a person who was arrested and produced by them before the learned Magistrate. The petitioners have already appeared before the learned Magistrate also. I am, in these circumstances, satisfied that it is for the petitioners to apply before the learned Magistrate for exemption from appearance. Their applications under Section 205 Cr.P.C for such exemption must be considered by the learned Magistrate on merits and appropriate orders must be passed without insisting of such personal appearance for considering the prayer for exemption.

This petition, in these circumstances, is allowed in part. There shall be a direction to the learned Magistrate to consider the application for exemption from personal appearance of the petitioners. Such applications for exemption can be filed on the next date of posting before the learned Magistrate.

(R.BASANT, JUDGE)

sj